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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/764,589

Filing Date: January 27, 2004

Appellant(s): SHIMADA ET AL.

Benjamin Hauptman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 16, 2008 appealing from the Office action mailed December 19, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 4-6, 11-16 and 18-22 are rejected.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on June 14, 2007 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,045,543	POZNIAK et al	4-2000
2004/0006323	HALL et al	1-2004

English translation of JP 2001157690 A to Okuda et al (attached hereto)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6, 11-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okuda et al (JP 2001157690) in view of Hall et al (U.S. Patent Application Publication No. 2004/0006323).

With respect to **claim 4**: Okuda teaches a pants-type disposable wearing article 1, comprising: a liquid-impervious base sheet (comprising sheets 3,5) defining front and rear waist regions opposed to each other and a crotch region D extending in a longitudinal direction of said article between said front and rear waist regions (Fig. 1); a liquid-absorbent panel 4 extending over said crotch region D and further into said front and rear waist regions; said base sheet having, in said front and rear waist regions, a waist-surrounding end zone extending in a transverse direction of said article, a pair of waist lateral zones extending in the longitudinal direction and, in said crotch region D, a pair of crotch lateral zones extending in leg-surrounding directions, respectively; said base sheet being provided with a waist-surrounding first elastic member 22 extending in the transverse direction along said waist-surrounding end zone and being contractible in said transverse direction, a plurality of waist-surrounding second elastic members 21 lying below said first elastic members 22 and being contractible in said transverse direction, and a plurality of leg-surrounding elastic members 61 extending along said crotch lateral zones in the leg-surrounding directions, respectively, and being contractible in said leg-surrounding directions, respectively; said second elastic members 21 being located in said crotch region D and said front and rear waist regions and spaced apart one from another by a predetermined interval in said longitudinal direction; and said waist lateral zones being connected together to form a waist-hole and a pair of leg-holes; wherein each of said second elastic members 21 has fixed end portions 10A secured to said waist lateral zones and said crotch lateral zones in vicinities of respective side edges of said lateral zones, and a free middle portion 12A connecting and extending between said fixed end portions 10A across said panel in said

transverse direction and being directly secured neither to said base sheet nor to said panel; and said free middle portions 12A of said second elastic members 21 and said leg-surrounding elastic members 61 cross (Figs. 1,2), without intersecting, one another in at least said crotch lateral zones and are not secured together at their crossing points by virtue of the crossing point being located in the free portion region 12A. (¶0005-0007,0009,0011,0014,0015) The fixed end portions 10A of the second elastic members 21 located in said crotch region D are closer to the respective side edges of said crotch lateral zones than said leg-surrounding elastic members. (Figs. 1,2) The second elastic members 21 located in said at least one of said front and rear waist regions are applied in the expanded state and thus have a contracted state in which a dimension of said second elastic members as measured in the transverse direction is substantially the same as a transverse dimension of said panel as measured in the transverse direction between transversely opposite side edges of said panel. (¶ 0009) The base sheet comprises a first sheet 3 and a second sheet 5 comprised of two layers (Fig. 5), said first sheet 3 being sandwiched between said panel 4 and said second sheet 5. The panel 4 comprises a liquid-pervious upper layer sheet 2 adapted to face a wearer's skin, and a liquid-absorbent core interposed between said upper layer sheet and said base sheet. (¶0005)

Okuda does not teach that said first and second elastic members 22, 21, as well as said leg-surrounding elastic members are interposed between said first sheet 3 and said second sheet 5. Hall teaches an elastomeric composite laminate 70 suitable for use as a base sheet in the leg opening and waist opening areas. The base sheet taught by Hall comprises a first facing sheet 72 and a second facing sheet 74 wherein elastic strands 64 are interposed between said first and second sheets 72,74, respectively. ('323, Fig. 6, ¶¶ 0054,0057,0065,0066) Hall teaches that the instant elastomeric composite laminate provides reinforcing elastic strands that provide additional improved elastic behavior to absorbent articles, therefore it would be obvious to one

of ordinary skill in the art to modify the article of Okuda by including the elastomeric composite of Hall as an additional layer of the base sheet of Okuda in the leg and waist areas to impart improved elastic behavior.

With respect to **claim 5**: The base sheet of the combined teaching of Okuda and Hall has a third sheet (sheet 5 of Okuda laminated to sheet 72 of Hall) interposed between said first sheet 3 of Okuda and the second sheet 74 of Hall when the laminate 70 of Hall is attached as a panel to the outer sheet 5 of Okuda based upon the teachings of Hall regarding incorporation of the laminate into an absorbent article. ('323, ¶¶0053,0054) The second elastic members 21 (waist elastics) are interposed between said first and third sheets 3,5 of Okuda, specifically between sheet 3 of Okuda and third sheet 70 of Hall (Fig. 5). The leg-surrounding elastic members 64 taught by Hall are interposed between the pair of sheets (sheets 72 and 5) other than the pair of sheets sandwiching said second elastic members 21. The second elastic members 21 are separated from said leg-surrounding elastic members 64 taught by Hall by said third sheet 72 lying between said second and leg-surrounding elastic members 21, 64, respectively, thereby ensuring that said second elastic members 21 are not secured to said leg-surrounding elastic members 64 at the crossover points of said second and leg-surrounding elastic members 21,64. The motivation to combine the teachings of Okuda and Hall is stated *supra* with respect to claim 4.

With respect to **claim 6**: Article 1 of Okuda further comprises a plurality of welding spots at which the sheets sandwiching said second elastic members 21 are bonded together; wherein said welding spots are formed in vicinities 10A of transversely opposite side edges of said panel, lie between each pair of adjacent free middle portions 12A of said second elastic

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members 21 and are spaced apart one from another by a predetermined distance in said longitudinal direction. (¶0015)

With respect to **claim 11**: Okuda teaches a pants-type disposable wearing article 1, comprising: a liquid-impermeable base sheet defining a front waist region, a rear waist region, and a crotch region extending between the front waist region and the rear waist region in a longitudinal direction of said article, said front and rear waist regions being attached to each other along transversely opposite side edges thereof so as to form a waist-hole and a pair of leg-holes (Fig. 1); a liquid-absorbent panel attached to an inner side of said base sheet; a first elastic member 22 extending along a peripheral edge of said waist-hole; a plurality of second elastic members 21 extending across said liquid-absorbent panel in at least one of said front and rear waist regions and between the transversely opposite side edges of said front and rear waist regions; and a plurality of third elastic members 61 extending along peripheral edges of said leg-holes; wherein each of said second elastic members 21 has opposite end portions 10A located outward beyond transversely opposite side edges of said liquid-absorbent panel and being secured to said base sheet, and a middle portion 12A connecting said opposite end portions, extending between the transversely opposite side edges of said liquid-absorbent panel, and being free of direct attachment to both said base sheet and said liquid-absorbent panel; and wherein the middle portions 12A of said second elastic members 21 cross over said third elastic members 61 and are not secured to said third elastic members 61 at crossover points of said second and third elastic members 21,61. (¶¶0005-0007,0009,0011,0014,0015) The article 1 has a relaxed state in which the middle portions of said second elastic members are allowed to contract to a transverse dimension which, as measured in a transverse direction of said article, is substantially the same as or slightly larger than a transverse dimension of said panel

as measured in the transverse direction between the transversely opposite side edges thereof.

(¶0009) Each of said second elastic members is entirely free of direct attachment to said base sheet except at the opposite end portions. (¶0009,0014,0015) pervious upper layer sheet 2 adapted to face a wearer's skin, and a liquid-absorbent core interposed between said upper layer sheet and said base sheet. (¶0005)

Okuda does not teach that said first and second elastic members 22,21, as well as said leg-surrounding elastic members are interposed between said first sheet 3 and said second sheet 5. Hall teaches an elastomeric composite laminate 70 suitable for use as a base sheet in the leg opening and waist opening areas. The base sheet taught by Hall comprises a first facing sheet 72 and a second facing sheet 74 wherein elastic strands 64 are interposed between said first and second sheets 72,74, respectively. ('323, Fig. 6, ¶¶ 0054,0057,0065,0066) Hall teaches that the instant elastomeric composite laminate provides reinforcing elastic strands that provide additional improved elastic behavior to absorbent articles, therefore it would be obvious to one of ordinary skill in the art to modify the article of Okuda by including the elastomeric composite of Hall as an additional layer of the base sheet of Okuda in the leg and waist areas to impart improved elastic behavior. The base sheet of the combined teaching of Okuda and Hall has a third sheet (sheet 72 of the laminate 70 taught by Hall) interposed between said first sheet 3 and the second sheet 5 of Okuda. This concept is illustrated in the diagram below and based upon the teachings of both Okuda and Hall. The second elastic members 21 (waist elastics) are interposed between said first and third sheets 3,5 of Okuda, specifically between sheet 3 of Okuda and third sheet 70 of Hall (Fig. 5). The leg-surrounding elastic members 64 taught by Hall are interposed between the pair of sheets (sheets 72 and 5) other than the pair of sheets sandwiching said second elastic members 21. The second elastic members 21 are separated from said leg-surrounding elastic members 64 taught by Hall by said third sheet 72 lying

between said second and leg-surrounding elastic members 21, 64, respectively, thereby ensuring that said second elastic members 21 are not secured to said leg-surrounding elastic members 64 at the crossover points of said second and leg-surrounding elastic members 21,64.

With respect to **claim 12:** The base sheet further comprises bonding spots joining said first and second sheets in regions located between the middle portions 12A of adjacent said second elastic members 21, said bonding spots limiting displacement of the middle portions of said second elastic members in the longitudinal direction of said article without affecting contraction of said middle portions in a transverse direction of said article. (¶¶0014,0015)

Okuda does not teach that said second elastic members 21 are disposed between said second sheet 3 and said third sheet, and thus does not teach bonds between said second and third sheets. However, such positioning of said second elastics between the layers of the base sheet is well known in the art, thus it would be obvious to one of ordinary skill in the art to modify the device of Okuda so as to position the second elastics between the second and third sheets with a reasonable expectation of success, since the device of Okuda seeks to solve a similar problem in the art, i.e. providing an absorbent article with elastics for proper fit.

With respect to **claim 13:** Okuda teaches a pants-type disposable wearing article 1, comprising: a liquid-impermeable base sheet defining a front waist region, a rear waist region, and a crotch region extending between the front waist region and the rear waist region in a longitudinal direction of said article, said front and rear waist regions being attached to each other along transversely opposite side edges thereof so as to form a waist-hole and a pair of leg-holes (Fig. 1); a liquid-absorbent panel attached to an inner side of said base sheet; a first elastic member 22 extending along a peripheral edge of said waist-hole; a plurality of second elastic members

21 extending across said liquid-absorbent panel in at least one of said front and rear waist regions and between the transversely opposite side edges of said front and rear waist regions; and a plurality of third elastic members 61 extending along peripheral edges of said leg-holes; wherein each of said second elastic members 21 has opposite end portions 10A located outward beyond transversely opposite side edges of said liquid-absorbent panel and being secured to said base sheet, and a middle portion 12A connecting said opposite end portions, extending between the transversely opposite side edges of said liquid-absorbent panel, and being free of direct attachment to both said base sheet and said liquid-absorbent panel.

(¶¶¶0005-0007,0009,0011,0014,0015) The base sheet comprises first and second sheets, said first sheet is disposed between said liquid-absorbent panel and said second sheet, and said second elastic members 21 are disposed between said first and second sheets (Fig. 5); said base sheet further comprising bonding spots joining said first and second sheets in regions located between the middle portions of adjacent said second elastic members, said bonding spots limiting displacement of the middle portions of said second elastic members in the longitudinal direction of said article without affecting contraction of said middle portions in a transverse direction of said article. (¶¶¶0014,0015)

Okuda does not teach that the middle portions 12A of said second elastic members 21 cross over said third elastic members 61 and are not secured to said third elastic members 61 at crossover points of said second and third elastic members 21,61. Hall teaches an elastomeric composite laminate 70 suitable for use as a base sheet in the leg opening and waist opening areas. The base sheet taught by Hall comprises a first facing sheet 72 and a second facing sheet 74 wherein elastic strands 64 are interposed between said first and second sheets 72,74, respectively. ('323, Fig. 6, ¶¶¶ 0054,0057,0065,0066) Hall teaches that the instant elastomeric composite laminate provides reinforcing elastic strands that provide additional improved elastic

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behavior to absorbent articles, therefore it would be obvious to one of ordinary skill in the art to modify the article of Okuda by including the elastomeric composite of Hall as an additional layer of the base sheet of Okuda in the leg and waist areas to impart improved elastic behavior. The base sheet of the combined teaching of Okuda and Hall has a third sheet (sheet 72 of the laminate 70 taught by Hall) interposed between said first sheet 3 and the second sheet 5 of Okuda. This concept is illustrated in the diagram below and based upon the teachings of both Okuda and Hall. The second elastic members 21 (waist elastics) are interposed between said first and third sheets 3,5 of Okuda, specifically between sheet 3 of Okuda and third sheet 70 of Hall (Fig. 5). The leg-surrounding elastic members 64 taught by Hall are interposed between the pair of sheets (sheets 72 and 5) other than the pair of sheets sandwiching said second elastic members 21. The second elastic members 21 are separated from said leg-surrounding elastic members 64 taught by Hall by said third sheet 72 lying between said second and leg-surrounding elastic members 21, 64, respectively, thereby ensuring that said second elastic members 21 are not secured to said leg-surrounding elastic members 64 at the crossover points of said second and leg-surrounding elastic members 21,64.

With respect to **claim 14:** Some of said bonding spots are arranged along said transversely opposite side edges of said panel and between entire said panel on the one hand and the end portions of said second elastic members on the other hand. (Fig. 1) (¶¶0014,0015)

With respect to **claim 15:** The base sheet of the combined teaching of Okuda and Hall, in an entire region 12A underlying said panel, is free of said bonding spots because any bonding spots created by the attachment of laminate 70 taught by Hall to the base sheet of Okuda would

not alter the previously existing arrangement of bonding spots taught by Okuda that meet the claim limitations. (¶¶ 0014,0015)

With respect to **claim 16**: The bonding spots of Okuda are presented between every pair of adjacent said second elastic members 21 so as to prevent said adjacent second elastic members from forming a bundle with each other. (¶¶ 0014,0015)

With respect to **claim 18**: Okuda teaches a pants-type disposable wearing article 1, comprising: a liquid-impermeable base sheet defining a front waist region, a rear waist region, and a crotch region extending between the front waist region and the rear waist region in a longitudinal direction of said article, said front and rear waist regions being attached to each other along transversely opposite side edges thereof so as to form a waist-hole and a pair of leg-holes (Fig. 1); a liquid-absorbent panel attached to an inner side of said base sheet; a first elastic member 22 extending along a peripheral edge of said waist-hole; a plurality of second elastic members 21 extending across said liquid-absorbent panel in at least one of said front and rear waist regions and between the transversely opposite side edges of said front and rear waist regions; and a plurality of third elastic members 61 extending along peripheral edges of said leg-holes; wherein each of said second elastic members 21 has opposite end portions 10A located outward beyond transversely opposite side edges of said liquid-absorbent panel and being secured to said base sheet, and a middle portion 12A connecting said opposite end portions, extending between the transversely opposite side edges of said liquid-absorbent panel, and being free of direct attachment to both said base sheet and said liquid-absorbent panel.
(¶¶0005-0007,0009,0011,0014,0015) The base sheet comprises first and second sheets, said first sheet is disposed between said liquid-absorbent panel and said second sheet, and said

second elastic members 21 are disposed between said first and second sheets (Fig. 5); said base sheet further comprising bonding spots joining said first and second sheets in regions located between the middle portions of adjacent said second elastic members, said bonding spots limiting displacement of the middle portions of said second elastic members in the longitudinal direction of said article without affecting contraction of said middle portions in a transverse direction of said article. (¶¶ 0014,0015) The base sheet of Okuda comprises first and second sheets, namely sheet 3 and the outer layer of sheet 5, and said second and third elastic members 21,61, respectively, are disposed between said first and second sheets; said base sheet further comprising a plurality of adhesive zones bonding said first and second sheets and end portions of said third elastic members 61 together; each of said adhesive zones being disposed, in the longitudinal direction, between the middle portions 12A of one pair of adjacent said second elastic members 21, and, in a transverse direction of said article, between entire said panel on the one hand and one of the end portions 10A of each of said second elastic members 21 in said pair on the other hand. (¶¶ 0015,0022)

Okuda does not teach that the middle portions 12A of said second elastic members 21 cross over said third elastic members 61 and are not secured to said third elastic members 61 at crossover points of said second and third elastic members 21,61. Hall teaches an elastomeric composite laminate 70 suitable for use as a base sheet in the leg opening and waist opening areas. The base sheet taught by Hall comprises a first facing sheet 72 and a second facing sheet 74 wherein elastic strands 64 are interposed between said first and second sheets 72,74, respectively. ('323, Fig. 6, ¶¶ 0054,0057,0065,0066) Hall teaches that the instant elastomeric composite laminate provides reinforcing elastic strands that provide additional improved elastic behavior to absorbent articles, therefore it would be obvious to one of ordinary skill in the art to modify the article of Okuda by including the elastomeric composite of Hall as an additional layer

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of the base sheet of Okuda in the leg and waist areas to impart improved elastic behavior. The base sheet of the combined teaching of Okuda and Hall has a third sheet (sheet 72 of the laminate 70 taught by Hall) interposed between said first sheet 3 and the second sheet 5 of Okuda. This concept is illustrated in the diagram below and based upon the teachings of both Okuda and Hall. The second elastic members 21 (waist elastics) are interposed between said first and third sheets 3,5 of Okuda, specifically between sheet 3 of Okuda and third sheet 70 of Hall (Fig. 5). The leg-surrounding elastic members 64 taught by Hall are interposed between the pair of sheets (sheets 72 and 5) other than the pair of sheets sandwiching said second elastic members 21. The second elastic members 21 are separated from said leg-surrounding elastic members 64 taught by Hall by said third sheet 72 lying between said second and leg-surrounding elastic members 21, 64, respectively, thereby ensuring that said second elastic members 21 are not secured to said leg-surrounding elastic members 64 at the crossover points of said second and leg-surrounding elastic members 21,64.

With respect to **claim 19**: Each of said adhesive zones is spaced in the longitudinal direction of said article from the middle portions 12A of the adjacent second elastic members 21 between which said adhesive zone is disposed. (¶ 0015,0022)

With respect to **claim 20**: Each of said adhesive zones is elongated in the transverse direction of said article, and spaced in said transverse direction from the end portions 10A of the adjacent second elastic members 21 between which said adhesive zone is disposed. (¶ 0015,0022)

With respect to **claim 21**: Article 1 of Okuda further comprises a plurality of further adhesive zones different from the adhesive zones that bond said first and second sheets and the end

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portions of said third elastic members 61 together, said further adhesive zones bonding the end portions 10A of the second elastic members to the base sheet; wherein each of said adhesive zones is spaced in said transverse direction from the further adhesive zones at the end portions of the adjacent second elastic members 21, between which said adhesive zone is disposed.

('690, ¶0015,0022)

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okuda et al (JP 2001157690-English translation) in view of Hall et al (U.S. Patent Application Publication No. 2004/0006323) as applied to claims 4-6, 11-16 and 18-21 above, and further in view of Pozniak et al (U.S. Patent No. 6,045,543).

With respect to **claim 22:** The third sheet of the combined teaching of Okuda and Hall, disposed between said second elastic member 21 and said second sheet, is secured to said second sheet.

The combined teaching of Okuda and Hall does not teach a third sheet that carries printed indicia in a region corresponding to the middle portions of said second elastic members. Pozniak teaches an absorbent article having printed indicia that extend transversely across the front waist region of said article that, when combined with the article of Okuda, would correspond to the middle portions 12A taught by Okuda. Pozniak teaches that these indicia serve as a guide for proper fastening and fit of the diaper, therefore it would be obvious to one of ordinary skill in the art to modify the article of the combined teaching of Okuda and Hall such that said third sheet carries printed indicia as taught by Pozniak to ensure proper fastening and fit of the article.

(10) Response to Argument

Appellant's arguments filed September 26, 2008 have been fully considered but they are not persuasive.

With respect to arguments regarding claim 4: Appellant argues that the elastic members 61 of Okuda do not form leg surrounding elastic members. Examiner did not cite elastics 61 against the claimed leg-surrounding elastic members, rather examiner cited members 21 disclosed by Okuda which are clearly leg surrounding elastic members as the term is understood by applicant's disclosure and are structurally substantially identical to those disclosed by applicant with respect to position within the article. Further, since Okuda meets that limitation, Hall does not need to disclose such elastic members. As to applicant's argument that the combination of Okuda and Hall is based upon improper hindsight, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Hall discloses a laminate comprising two sheets with elastomeric strand members positioned therebetween that is or can be attached to other articles to impart improved elastic properties to the article to which it is attached. Hall discloses in paragraphs 0007 and 0009 that attaching the elastomeric laminates of the invention as leg cuffs, e.g. in absorbent articles, improves the elastic performance and fit of the article. Therefore, since Hall provides explicit motivation, no hindsight is necessary or relied upon in the rejection.

With respect to arguments regarding the rejection of claims 11, 12 and 18-21: Appellant argues that neither Okuda nor Hall discloses or suggests a plurality of third elastic members as

recited in claims 11 and 18. It is noted herein that nowhere in the applicant's disclosure is such a "plurality of third elastic members" identified or the phrase mentioned. Therefore, since applicant identifies first waist-surrounding elastics, second waist surrounding elastic and a plurality of leg surrounding elastics in the disclosure, the plurality of third elastic members must be, and are interpreted as, an additional physically separate entity. Thus examiner cited elastics 61 against the recited plurality of third elastics. It is also noted that applicant merely states that neither Okuda nor Hall discloses or suggests the plurality of third elastic members, yet offers no explanation as a basis for this assertion.

Appellant's arguments with regard to dependent claims 12 and 19-21 have been fully considered but are not persuasive, as Appellant's arguments depend entirely on arguments regarding the rejection of claims 11 and 18, which have been addressed *supra*.

With respect to arguments regarding the rejection of claims 13-16 Appellant argues that paragraphs 0014 and 0015, cited for support of examiner's position that Okuda discloses bonding points between the second elastic members limiting displacement of the elastic members, do not support such a disclosure by Okuda. Okuda discloses in paragraph 0023 that first and second sheets 3,5 are laminated and, in paragraph 0012, discloses that the elastic members 21 are fixed between the first and second sheets only at the side edges and are not fixed to those sheets at regions 21b, considered herein to be middle portions of the elastic. Since Okuda meets this limitation, the bonding sites causing lamination of the first and second sheets in the locations surrounding the middle portions 21b will necessarily limit displacement of the middle portions of second elastic members 21 in the longitudinal direction of the diaper.

Appellant's arguments with regard to dependent claims 14-16 have been fully considered but are not persuasive, as applicant's arguments depend entirely on arguments regarding the rejection of claim 13, which have been addressed *supra*.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Melanie J Hand/

Examiner, Art Unit 3761

Conferees:

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761

/Heather Shackelford/

Conferee